

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE

DANIEL LOVELACE and
HELEN LOVELACE, Individually, and as
Parents of BRETT LOVELACE, deceased,

Plaintiffs,

vs.

NO.: 2:13-cv-02289 dkv
JURY TRIAL DEMANDED

PEDIATRIC ANESTHESIOLOGISTS, P.A.;
BABU RAO PAIDIPALLI; and,
MARK P. CLEMONS,

Defendants.

**PLAINTIFFS' RESPONSE TO DEFENDANT, MARK P. CLEMONS, M.D.'S,
MOTION TO JOIN DEFENDANTS', PEDIATRIC ANESTHESIOLOGISTS, P.A., AND
BABU RAO PAIDIPALLI, M.D.'S MOTION TO EXCLUDE OPINIONS OF
PLAINTIFFS' DESIGNATED EXPERT WITNESSES JASON KENNEDY, M.D. AND
ROBERT E. MARSH UNDER F.R.E./*DAUBERT* AND MEMORANDUM OF LAW IN
SUPPORT OF MOTION**

Come the Plaintiffs, Daniel Lovelace and wife, Helen Lovelace, Individually, and as Parents of Brett Lovelace, deceased, by counsel, and for their Response to Defendant, Mark P. Clemons, M.D.'s, Motion to Join Defendants', Pediatric Anesthesiologists, P.A., and Babu Rao Paidipalli, M.D.'s Motion to Exclude Opinions of Plaintiffs' Designated Expert Witnesses Jason Kennedy, M.D. and Robert E. Marsh under F.R.E./*Daubert* and Memorandum of Law in Support of Motion, states:

1. That, as Defendant, Clemons, did not timely file a *Daubert* Motion under the Scheduling Order, no adoption by joinder (sic) [D.E. 129] should be allowed, as such attempted joinder was made after the deadline in the Scheduling Order for such filings, and, in any event, a

“joinder” is not supported by the Federal Rules of Civil Procedure 18-21 under the circumstances here, which Rules treat the subject of joinder.

2. That, in the event that Defendant, Clemons, is allowed this Joinder (sic), Plaintiffs assert that the same arguments and authorities recited in Plaintiffs’ Response to Defendants, Pediatric Anesthesiologists, P.A., and Babu Rao Paidipalli, M.D.’s Motion to Exclude Opinions of Plaintiffs’ Designated Expert Witnesses, Jason Kennedy, M.D. and Robert E. Marsh under F.R.E. 702/*Daubert* and Memorandum of Law in Support of Motion apply equally to Defendant, Clemons, although Clemons is not an anesthesiologist and he has made no independent assertions relative to Jason Kennedy, M.D. or Robert E. Marsh, nor has he provided any additional bases to support his position.

WHEREFORE, Plaintiffs, Daniel Lovelace and wife, Helen Lovelace, Individually, and as Parents of Brett Lovelace, deceased, submit that the Joinder (sic) [D.E. 129] should be denied and held for naught.

Respectfully submitted,

/s/ Mark Ledbetter

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing has been properly served upon all counsel of record identified below via the Court's ECF filing system this 22nd day of August, 2014:

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/s/ Mark Ledbetter
Mark Ledbetter, Certifying Attorney